

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
FINAL UTILITY ORDERS  
Selected for Publication  
April 2002

April 4, 2002

FOCAL COMMUNICATIONS  
CORPORATION OF  
WASHINGTON

Petitioner,

v.

VERIZON NORTHWEST, INC.,

Respondent.

DOCKET NO. UT-013019

SECOND SUPPLEMENTAL ORDER  
AFFIRMING INITIAL ORDER

The Commission affirms an initial order requiring Verizon to make available an entire interconnection agreement as requested by a competing carrier.

The Federal Communication Commission's ("FCC") Merger Order, approving the merger of Bell Atlantic and GTE, and resulting in the creation of Verizon, allows a competing carrier to adopt any interconnection arrangement, including an entire agreement, to the same extent and under the same rules that would apply to a request under 47 U.S.C. 252(i), if it was voluntarily negotiated prior to the merger anywhere in GTE's prior service area, regardless of whether it contains terms related to reciprocal compensation for ISP-bound traffic governed by section 251(b) of the Telecommunications Act of 1996. ¶¶35-38; *GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee, for Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License, Memorandum Opinion and Order, 15 FCC Rcd 14032 (rel. June 16, 2000)* ("Bell Atlantic/GTE Merger Order"). The Order includes Merger Conditions at Appendix D; see also *Global NAPs, Inc. v. Verizon Communications, Verizon New England, Inc. and Verizon Virginia, INC, File No. EB-01-MD-010 (rel. February 28, 2002)*.

Until the Commission determines that an entire agreement can be adopted and an interconnection agreement between an incumbent and a competing carrier is deemed approved, it is premature to consider whether the competing carrier is entitled to compensation for Internet Service Provider ("ISP")-bound traffic under the FCC Order on Remand. ¶43; *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Inter-carrier Compensation for ISP-Bound Traffic*, CC docket 96-98, 99-68, Order on Remand and Report and Order, (FCC 01-131, Rel. April 27, 2001) ("Order on Remand").

The Commission will not delay a decision waiting for the FCC to deliver a definitive opinion on the workings of the most favored nation provisions in the Merger Order because the Commission has the authority to act and because the FCC otherwise has ruled unequivocally to interpret those provisions. ¶47.

A Commission policy statement is not a rule and has no binding effect, but is a guide for affected persons of the Commission's current thoughts about an issue. ¶52; RCW 34.05.230.

The Commission will interpret flexibly its policy, that interconnection agreements only become effective when they are approved, to prevent unfairness and to prevent imposition of hardship on a Competitive Local Exchange Company ("CLEC") due to deliberate delays by an Incumbent Local Exchange Carrier ("ILEC"), especially under circumstances where an incumbent carrier fails to follow clear direction from regulatory agencies regarding the offering of an interconnection agreement to a competing carrier. ¶52; RCW 34.05.230.

April 8, 2002

CITY OF KENT,

Petitioner,

v.

PUGET SOUND ENERGY, INC.

Respondent,

DOCKET NO. UE-010778 (Consolidated)

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CITY OF AUBURN, CITY OF  
BREMERTON, CITY OF DES  
MOINES, CITY OF FEDERAL  
WAY, CITY OF LAKEWOOD,  
CITY OF REDMOND, CITY OF  
RENTON, CITY OF SEATAC,  
AND CITY OF TUKWILA,

Petitioners/Complainants,

v.

PUGET SOUND ENERGY, INC.

Respondent

DOCKET NO. UE-010911 (Consolidated)

FOURTH SUPPLEMENTAL ORDER  
CLARIFYING  
THIRD SUPPLEMENTAL ORDER

The Commission rejects the petitioner's claim that Puget Sound Energy's underground conversion agreement eliminates the possibility of negotiation on the issue of future relocation costs because part of the agreement reflects a tariff provision that involves a quid pro quo in which PSE agrees to waive its right to insist that underground facilities be located on private easements and instead locate them on city right-of-way, in exchange for the city's agreement to pay the costs of any future relocation of the facilities. ¶24.

April 8, 2002

In the Matter of the Petition of

PACIFICORP, D/B/A PACIFIC  
POWER & LIGHT,

To Initiate an Investigation of  
Multi-Jurisdictional Issues

DOCKET NO. UE-020319

ORDER AUTHORIZING PARTICIPATION IN  
MULTI-STATE DISCUSSIONS

The Commission authorizes participation in informal multi-state discussions addressing inter-jurisdictional allocation issues with the understanding that these discussions will not be conducted by an administrative law judge and will not be recorded. Nor will the Commission be bound by its representatives in the informal discussions or have any obligation to participate in the subsequent formal process outlined in the petition. The Commission will independently review any principles of interjurisdictional allocation arising out of the multi-state process.

¶3.

April 12, 2002

In the Matter of the Investigation  
Into

DOCKET NO. UT-003022

U S WEST  
COMMUNICATIONS, INC.'s  
Compliance With Section 271 of  
the Telecommunication Act of  
1996.

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In the Matter of

DOCKET NO. UT-003040

U S WEST  
COMMUNICATIONS, INC.'s

THIRTY-FIRST SUPPLEMENTAL ORDER

Statement of Generally  
Available Terms Pursuant to  
Section 252(f) of the  
Telecommunications Act of 1996

Based on the FCC's decision that local use restrictions apply to enhanced extended loops ("EELs"), the Commission reverses its earlier decisions prohibiting Qwest from applying local use restrictions to EELs. ¶16. Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Third Report and Order, CC Docket No. 96-98, FCC 99-238 (rel. Nov. 5, 1999) (UNE Remand Order); Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Supplemental Order, CC Docket No. 96-98, FCC 99-370 (rel. Nov. 24, 2000)(Supplemental Order; Implementation of the Local Competition Provisions in the Telecommunication Act of 1996, Supplemental Order Clarification, CC Docket No. 96-98, FCC 00-183 (rel. June 2, 2000) (Supplemental Order Clarification).

Local use restrictions apply to both new EELs and converted EELs, and to multiple end- user facilities as well as to individual end-user facilities. ¶¶18-19.

Competitive local exchange carriers ("CLECs") must provide notice to Qwest within 10 days when they disconnect Qwest's facilities from the network interface device ("NID") protector in order to make space available. ¶33.

Qwest may not require CLECs to wait until Qwest conducts an inventory of CLEC's terminations and inputs this information into Qwest's system before Qwest provisions a CLEC's subloop order. ¶38.

Losses due to negligence should not be excluded from the indemnification provisions contained in the SGAT. ¶46.

Qwest must provide evidence, now, that it has in place a process, applicable to the post-271 approval period, to provide data regarding actual service intervals so that unaffiliated parties can evaluate the performance intervals it provides itself compared to the intervals provided to competitors. ¶51.